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Attorney for the Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Case No.:

DAKOTA DEMPSEY,

Plaintiff,

vs.

**MIDLAND CREDIT MANAGEMENT, INC.
A/K/A MIDLAND CREDIT
MANAGEMENT A/K/A MCM,**

Defendant

COMPLAINT FOR DAMAGES

**1. VIOLATION OF THE FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 *ET SEQ.*:**

**2. VIOLATION OF NEVADA
REVISED STATUTES §§ 649.370
and 649.375**

JURY TRIAL DEMANDED

NOW comes DAKOTA DEMPSEY (“Plaintiff”), by and through the undersigned attorney,
complaining as to the conduct of MIDLAND CREDIT MANAGEMENT, INC. A/K/A
MIDLAND CREDIT MANAGEMENT A/K/A MCM (“Defendant”) as follows:

1 8. Defendant acted through its agents, employees, officers, members, directors, heirs,
2 successors, assigns, principals, trustees, sureties, representatives and insurers at all times relevant
3 to the instant action.
4

5 **FACTUAL ALLEGATIONS**

6 9. Plaintiff reserves the right to amend the Complaint should pertinent facts become
7 known at a later time.
8

9 10. Plaintiff is an unsophisticated consumer.
10

11 11. The instant action arises out of Defendant's attempts to collect upon an outstanding
12 consumer debt ("subject debt"), which defendant claims is owed by the Plaintiff.
13

14 12. The subject debt stems from a credit card obligation Plaintiff allegedly owed to
15 Synchrony Bank PayPal Credit with an alleged present balance of \$7,120.86.
16

17 13. On or about December 23, 2020, Defendant issued a letter to Plaintiff, which seemed
18 to come from its "pre-Legal Department" and was entitled in bold letters, "**ATTORNEY**
19 **REVIEW PLANNED.**"

20 14. Below that, the letter had a bold red bulls-eye type stamp, which read, "**FINAL**
21 **NOTICE.**"
22

23 15. The next bold line read, "**IMPORTANT NOTICE – PLEASE READ**
24 **CAREFULLY. FAILURE TO REPLY WILL RESULT IN ATTORNEY REVIEW.**"
25

26 16. The correspondence further stated, "This is a demand for full payment of \$7,120.86.
27 Please login to your account at MidlandCredit.com and pay, or call our Pre-Legal department at
28

1 877-xxx-xxxx by 01/22/2021 to resolve this account. If you do not reply, we plan on sending your
2 account to an attorney in the state of NV.”

3
4 17. The next paragraph starts by asking the question, “**What will an attorney do,**” and
5 then answers the question in the next two lines with contradictory sentences as follows, “We intend
6 to have a lawsuit filed against you. Before a lawsuit can be filed, an attorney must review your
7 account. If the attorney determines there is cause for a suit, they will: - Commence a lawsuit in a
8 local court; - Serve a copy of the lawsuit personally on you, which could be done by a process
9 server, a sheriff or other means; - Seek to obtain a judgment.”

10
11 18. Despite advising Defendant’s intent is to sue the Plaintiff, the letter then says, “We
12 want to help you resolve the matter voluntarily, “ and proceeds to ask for payment and if a payment
13 is made, Defendant will work to avoid sending Plaintiff’s account to an attorney.

14
15 19. The letter does not state if Plaintiff were to make a payment in accordance with the
16 terms as provided, Defendant could definitely stop an attorney review, as if it were not entirely
17 within their own control.

18
19 20. The final paragraph of the letter admonishes the Plaintiff and creates a forewarning
20 sense of urgency by stating, “Your prompt attention is necessary to avoid the possibility of attorney
21 review,” as if “attorney review” were a legal process.

22
23 21. The confusing letter gave Plaintiff the impression the letter was a form of a legal
24 document and created a false and misleading representation and sense of urgency.

25
26 22. Reading “**ATTORNEY REVIEW PLANNED**” caused Plaintiff to become anxious,
27 stressed and worried he was being sued.

1 23. Plaintiff suffered real and concrete harm because Defendant communicated with her
2 in this manner prohibited by the FDCPA.

3
4 **DAMAGES**

5 24. Defendant's misleading, wanton and malicious conduct has severely impacted
6 Plaintiff's daily life and general well-being.

7
8 25. Plaintiff has expended time and incurred costs consulting with her attorney as a
9 result of Defendant's unfair, deceptive and misleading actions.

10
11 26. Plaintiff was unduly inconvenienced and harassed by Defendant's unlawful attempts
12 to collect the subject debt.

13
14 **COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

15 27. Plaintiff repeats and realleges paragraphs 1 through 26 as though fully set forth
16 herein.

17
18 28. Plaintiff is a "consumer" as defined by 15 U.S.C. §1692a(3) of the FDCPA.

19 29. Defendant is a "debt collector" as defined by §1692a(6) of the FDCPA, because its
20 primary business is the collection of delinquent debts and it regularly collects debts and uses the
21 mail and/or the telephones to collect delinquent accounts allegedly owed to a third party.

22
23 30. Moreover, Defendant is a "debt collector" because it acquired the rights to the
24 subject debt after it was in default as per 15 U.S.C. §1692a(6) of the FDCPA.
25
26
27
28

1 36. The process used by the Defendant in its relentless attempts to collect a debt is a
2 prohibited, harassing, false and misleading, deceptive and unfair practice in violation of both
3 NRS §§ 649.370 and 649.375(1).
4

5 **RELIEF REQUESTED**

6 **WHEREFORE**, Plaintiff, DAKOTA DEMPSEY respectfully requests this Honorable Court:
7

8 a. Declare the practices complained of herein are unlawful and violate the
9 aforementioned statutes;
10

11 b. Award Plaintiff statutory and actual damages in an amount to be determined at trial,
12 for the underlying FDCPA violations;
13

14 c. Award Plaintiff statutory and actual damages in an amount to be determined at trial,
15 for the underlying NRS violations;
16

17 d. Award Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C.
18 §1692k;
19

20 e. Award any other relief as the Honorable Court may deem just and proper.
21

Plaintiff demands trial by jury.

22 Date: May 5, 2021

Respectfully submitted,

23 By: /s/ Nicholas M. Wajda
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